

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 1:18CR121

AMBROSE DEJUAN NELSON

TRANSCRIPT OF PLEA HEARING  
BEFORE THE HONORABLE HALIL S. OZERDEN  
UNITED STATES DISTRICT JUDGE

DECEMBER 21, 2018  
GULFPORT, MISSISSIPPI

APPEARANCES:

FOR THE GOVERNMENT:

KATHLYN VAN BUSKIRK, ESQUIRE  
U.S. ATTORNEY'S OFFICE - GULFPORT  
1575 20TH AVENUE  
GULFPORT, MISSISSIPPI 39501

FOR THE DEFENDANT:

JAMES L. DAVIS, III, ESQUIRE - CJA  
P.O. BOX 1839  
GULFPORT, MISSISSIPPI 39502  
AND  
ROSS R. BARNETT, JR., ESQUIRE  
BARNETT LAW FIRM - JACKSON  
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REPORTED BY: SHERRI L. PENNY, RPR, FCRR  
2012 15TH STREET, SUITE 403

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GULFPORT, MISSISSIPPI 39501  
(228) 563-1751

1           **THE COURT:** Next case is 1:18-121, United States  
2 versus Ambrose DeJuan Nelson, for a change of plea. Would  
3 counsel please make their appearances.

4           **MS. VAN BUSKIRK:** Kathlyn Van Buskirk on behalf of  
5 the government.

6           **THE COURT:** Good morning.

7           **MR. DAVIS:** Jim Davis on behalf of Mr. Nelson, and  
8 Mr. Nelson is in the courtroom with us.

9           **MR. BARNETT:** I'm Ross Barnett.

10          **THE COURT:** On behalf of the defendant?

11          **MR. BARNETT:** Co-counsel.

12          **THE COURT:** Good morning, Counsel.

13          **MR. BARNETT:** Good morning, Your Honor.

14          **THE COURT:** All right. I understand this will be a  
15 change of plea to guilty to Count 2; is that correct?

16          **MR. BARNETT:** Yes, sir.

17          **THE COURT:** I've been presented with an original plea  
18 agreement and plea supplement, which I have reviewed. They  
19 have been executed by counsel for the government, as well as  
20 counsel for the defendant. Ms. Van Buskirk, let me inquire,  
21 pursuant to the Crime Victims' Rights Act, are there any  
22 victims of this offense?

23          **MS. VAN BUSKIRK:** No, Your Honor.

24          **THE COURT:** At this time, then, if counsel and the  
25 defendant would approach the podium, I'll ask him to take the

1 oath and we will begin.

2 Sir, would you please raise your right hand and take  
3 the oath.

4 (Oath Administered)

5 **THE COURT:** Sir, would you please state your full  
6 name for the record.

7 **DEFENDANT:** Ambrose DeJuan Nelson.

8 **THE COURT:** Mr. Nelson, do you understand that you  
9 are now under oath, and that if you answer any of my questions  
10 here today falsely, your answers may later be used against you  
11 in another prosecution for perjury or making a false statement,  
12 do you understand that, sir?

13 **DEFENDANT:** Yes, sir.

14 **THE COURT:** Are you able to read, speak and  
15 understand the English language?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** Are you a citizen of the United States?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** If at any point this morning you do not  
20 understand something I say or a question I ask, please let me  
21 know that, I'm happy to repeat myself. Also, if at any point  
22 you would like to stop and consult with your attorney, I'm  
23 happy to let you do that as well, you just need to let me know.  
24 Do you understand all of that?

25 **DEFENDANT:** Yes, sir.

1           **THE COURT:** The first thing I have to do this morning  
2 is ask a few questions to establish that what you're doing here  
3 today is a knowing and voluntary act, and that you are doing it  
4 of your own free will. So I'm going to begin with a few  
5 questions along those lines. How old are you, sir?

6           **DEFENDANT:** I'm 40 years old.

7           **THE COURT:** How far did you go in school?

8           **DEFENDANT:** I got my GED.

9           **THE COURT:** All right. And are you able to read and  
10 write?

11          **DEFENDANT:** Yes, sir.

12          **THE COURT:** Have you been treated recently for any  
13 mental illnesses or addictions to alcohol or narcotic drugs of  
14 any kind?

15          **DEFENDANT:** No, sir.

16          **THE COURT:** Have you ever been treated for any mental  
17 illnesses or addictions to alcohol or narcotic drugs of any  
18 kind?

19          **MR. BARNETT:** Have you ever been treated, ever?

20          **DEFENDANT:** No, sir.

21          **THE COURT:** Okay. Now, as you stand here today, are  
22 you presently under the influence --

23          **DEFENDANT:** No, sir.

24          **THE COURT:** -- of anything, alcoholic beverage, drug,  
25 prescription medication, any other substance that would affect

1 your ability to understand what's going on?

2 **DEFENDANT:** No, sir.

3 **THE COURT:** Are you capable of consulting with your  
4 attorney and understanding what he is telling you?

5 **DEFENDANT:** Yes.

6 **THE COURT:** Do you understand why we are here and  
7 what is happening today?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** And do you understand the seriousness of  
10 these proceedings?

11 **DEFENDANT:** Yes, sir.

12 **THE COURT:** Do you understand the purpose of your  
13 appearance this morning is to change your plea in this case  
14 from not guilty to Count 2 of the indictment, do you understand  
15 that?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** Counsel, have you met with your client?

18 **MR. DAVIS:** Yes, Your Honor.

19 **THE COURT:** Mr. Barnett?

20 **MR. BARNETT:** Yes, sir.

21 **THE COURT:** And in each of your opinion, is he  
22 capable of understanding these proceedings and your advice?

23 **MR. DAVIS:** Yes, sir, Your Honor.

24 **MR. BARNETT:** Yes, sir.

25 **THE COURT:** Is there any question in either of your

1 minds about his competence to enter a plea?

2 **MR. DAVIS:** No, Your Honor.

3 **MR. BARNETT:** No, Your Honor.

4 **THE COURT:** Ms. Van Buskirk, is the government aware  
5 of any issues with respect to the defendant's competence to  
6 enter a plea?

7 **MS. VAN BUSKIRK:** No, Your Honor.

8 **THE COURT:** Now, Mr. Nelson, have you received a copy  
9 of the indictment pending against you in this case, that is the  
10 written charges brought against you by the government?

11 **DEFENDANT:** Yes, sir, I have.

12 **THE COURT:** Have you had an opportunity to review the  
13 indictment with your attorney and fully discuss the charges in  
14 it with your attorney?

15 **DEFENDANT:** Yes, sir, I have.

16 **THE COURT:** Were you able to ask your attorney any  
17 and all questions that you may have had about the charges in  
18 the indictment?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** Did you understand your attorney's  
21 answers?

22 **DEFENDANT:** Yes, I did.

23 **THE COURT:** Do you understand the charges against you  
24 in the indictment?

25 **DEFENDANT:** Yes, sir.

1           **THE COURT:** Have you also discussed with your  
2 attorney possible defenses, if any, that you might have to  
3 these charges?

4           **DEFENDANT:** Yes, sir.

5           **THE COURT:** Were you able to ask your attorney any  
6 questions you may have had about that subject?

7           **DEFENDANT:** Yes, sir.

8           **THE COURT:** And did you understand your attorney's  
9 answers?

10          **DEFENDANT:** Yes, I did.

11          **THE COURT:** Did your attorney also discuss with you  
12 possible witnesses, if any, who could be called to testify in  
13 your defense to these charges?

14          **DEFENDANT:** Yes, sir.

15          **THE COURT:** Were you able to ask your attorney any  
16 questions you may have had about that subject?

17          **DEFENDANT:** Yes, sir.

18          **THE COURT:** Did you understand his answers?

19          **DEFENDANT:** Yes, I did.

20          **THE COURT:** Did your attorney also review and discuss  
21 with you the evidence that the government intended to produce  
22 at trial to support the charges against you?

23          **DEFENDANT:** Yes, sir.

24          **THE COURT:** Were you able to ask your attorney any  
25 questions that you may have had about that subject?

1           **DEFENDANT:** Yes, sir.

2           **THE COURT:** Did you understand your attorney's  
3 answers?

4           **DEFENDANT:** Yes, I did.

5           **THE COURT:** Are you satisfied with the amount of time  
6 you have been able to spend with your attorneys?

7           **DEFENDANT:** Yes, sir.

8           **THE COURT:** Are you satisfied with the amount of time  
9 your attorneys have spent working on your case?

10          **DEFENDANT:** Yes, I am, sir.

11          **THE COURT:** Are you fully satisfied with the counsel,  
12 representation and advice given to you in this case by your  
13 attorneys?

14          **DEFENDANT:** Yes.

15          **THE COURT:** If you have any complaints or objections  
16 whatsoever regarding the services provided to you by your  
17 attorneys in this case, now is the time to make those  
18 objections. Do you have any?

19          **DEFENDANT:** No, I don't.

20          **THE COURT:** Now, I understand your willingness to  
21 plead guilty this morning is the result of some discussions  
22 that either you or your attorneys have had with the attorney  
23 for the government which have resulted in these two written  
24 documents, the plea agreement and plea supplement; is that  
25 correct?



1           **DEFENDANT:** Yes, sir.

2           **THE COURT:** And is this your signature on the plea  
3 agreement and the plea supplement?

4           **DEFENDANT:** Yes, it is.

5           **THE COURT:** Did you have an opportunity to read and  
6 discuss the plea agreement and the plea supplement with your  
7 attorneys before you signed those documents?

8           **DEFENDANT:** Yes, I did.

9           **THE COURT:** And were you able to ask your attorneys  
10 any and all questions you may have had about the plea agreement  
11 and plea supplement?

12           **DEFENDANT:** Yes, sir.

13           **THE COURT:** And did you understand your attorneys'  
14 answers?

15           **DEFENDANT:** Yes, I did.

16           **THE COURT:** Do you fully understand the terms of the  
17 plea agreement and plea supplement?

18           **DEFENDANT:** Yes, sir.

19           **THE COURT:** Counsel, do each of you agree that your  
20 client fully understands the terms of the plea agreement and  
21 plea supplement, Mr. Davis?

22           **MR. DAVIS:** Yes, sir, Your Honor.

23           **THE COURT:** Mr. Barnett?

24           **MR. BARNETT:** Yes, sir, Your Honor.

25           **THE COURT:** Now, at this time, Mr. Nelson, I'm going

1 to ask the attorney for the government to state into the record  
2 some of the key terms or highlights of your agreement with the  
3 government. I want you to listen to what she has to say  
4 because when she's finished I'm going to ask you if you  
5 understand and agree with these terms and conditions. Ms. Van  
6 Buskirk.

7 **MS. VAN BUSKIRK:** Yes, Your Honor. By entering into  
8 the agreement and the accompanying plea supplement, the  
9 defendant hereby expressly waives the following rights: The  
10 right to appeal the conviction and sentence imposed in this  
11 case, or the manner in which the sentence was imposed, or on  
12 any grounds whatsoever; and the right to contest the conviction  
13 or sentence, or the manner in which the sentence was imposed in  
14 any post-conviction proceeding, including, but not limited to,  
15 a motion brought under Title 28, United States Code, Section  
16 2255, and any type of proceeding claiming double jeopardy or  
17 excessive penalty as a result of any forfeiture; any right to  
18 seek attorneys' fees and/or costs under the Hyde Amendment; and  
19 the defendant acknowledges that the government's position in  
20 the instant prosecution was not vexatious, frivolous or in bad  
21 faith; and all rights, whether asserted directly or by a  
22 representative, to request or receive from any agency of the  
23 United States any records pertaining to the investigation or  
24 the prosecution of this case under the Freedom of Information  
25 Act or the Privacy Act.

1           He further acknowledges and agrees that any factual  
2 issues regarding the sentencing will be resolved by the  
3 sentencing judge under a preponderance of the evidence  
4 standard. And he waives any right to a jury determination of  
5 these sentencing issues, and agrees that in making its  
6 sentencing decision, the District Court may consider any  
7 relevant evidence without regards to its admissibility under  
8 the Rules of Evidence applicable at trial.

9           **THE COURT:** Mr. Nelson, did you hear everything the  
10 attorney for the government had to say?

11           **DEFENDANT:** Yes, I did.

12           **THE COURT:** Did you understand everything she had to  
13 say?

14           **DEFENDANT:** Yes, sir.

15           **THE COURT:** Do you agree with those terms and  
16 conditions?

17           **DEFENDANT:** Yes, sir.

18           **THE COURT:** You understand what she read there were  
19 just the highlights. Your complete agreement with the  
20 government is controlled by all the written terms and  
21 conditions contained in these two documents, the plea agreement  
22 and plea supplement, do you understand that?

23           **DEFENDANT:** Yes, sir.

24           **THE COURT:** Now, has anyone made any other or  
25 different promises or assurances of any kind to you, other than

1 the ones in the plea agreement and plea supplement, in an  
2 effort to induce you to plead guilty in this case?

3 **DEFENDANT:** No, sir.

4 **THE COURT:** Let me inquire, Ms. Van Buskirk, was this  
5 the only formal plea offer exchanged?

6 **MS. VAN BUSKIRK:** No, there was a prior plea offer  
7 exchanged, but this one is the most beneficial, Your Honor.

8 **THE COURT:** Can you tell me just briefly what the  
9 earlier offer was?

10 **MS. VAN BUSKIRK:** The preliminary offer was to plead  
11 to Count 1 of the indictment, which is a 10 year to life  
12 statutory maximum. And, obviously, Count 2 is more beneficial,  
13 as it only has a 20 year maximum, Your Honor.

14 **THE COURT:** Is that correct, Mr. Davis?

15 **MR. DAVIS:** Yes, Your Honor.

16 **THE COURT:** Mr. Barnett?

17 **MR. BARNETT:** Yes, Your Honor.

18 **THE COURT:** And did either or both of you discuss  
19 this offer with Mr. Nelson?

20 **MR. DAVIS:** I discussed both of them with him, yes,  
21 sir.

22 **THE COURT:** Were you able to explain it to him and  
23 answer any questions he had about it?

24 **MR. DAVIS:** Yes, sir, Your Honor.

25 **THE COURT:** In your estimation, did he understand the

1 earlier offer?

2 **MR. DAVIS:** Yes, Your Honor. He is a very  
3 intelligent young man. He understood them.

4 **THE COURT:** And in your estimation, is he making a  
5 knowing, intelligent and voluntary decision not to accept the  
6 earlier offer, but instead to accept this one?

7 **MR. DAVIS:** Yes, sir, Your Honor.

8 **THE COURT:** Mr. Nelson, have you heard everything Mr.  
9 Davis has just said?

10 **DEFENDANT:** Yes.

11 **THE COURT:** Did you understand all of that?

12 **DEFENDANT:** Yes, sir.

13 **THE COURT:** And do you agree with that?

14 **DEFENDANT:** Yes, sir.

15 **THE COURT:** Did Mr. Davis discuss the government's  
16 earlier offer of the plea to Count 1 with you?

17 **DEFENDANT:** Yes.

18 **THE COURT:** Were you able to ask your attorney any  
19 questions you had about that earlier plea offer?

20 **DEFENDANT:** Yes.

21 **THE COURT:** Did you understand Mr. Davis' answers?

22 **DEFENDANT:** Yes, I did.

23 **THE COURT:** Did you understand the government's  
24 earlier offer?

25 **DEFENDANT:** Yes, I did.

1           **THE COURT:** And are you telling me here today it is  
2 your own knowing, intelligent and voluntary decision not to  
3 accept that offer, but instead to accept the one we're here on  
4 today?

5           **DEFENDANT:** Yes, sir.

6           **THE COURT:** All right. Then let me ask, Mr. Nelson,  
7 has anyone attempted in any way to force you or threaten you to  
8 plead guilty in this case?

9           **DEFENDANT:** No, sir.

10          **THE COURT:** Are you pleading guilty of your own free  
11 will because you are, in fact, guilty?

12          **DEFENDANT:** Yes, sir.

13          **THE COURT:** Now, do you understand that the terms of  
14 the plea agreement and the plea supplement are merely  
15 recommendations to the Court, that I can reject those  
16 recommendations without permitting you to withdraw your plea of  
17 guilty, and then impose a sentence that may be more severe than  
18 you may anticipate, do you understand that?

19          **DEFENDANT:** Yes, sir.

20          **THE COURT:** Now, you're also waiving the right to  
21 appeal your conviction and sentence, do you understand that?

22          **DEFENDANT:** Yes, sir.

23          **THE COURT:** That last question pertains to the  
24 waivers that Ms. Van Buskirk mentioned earlier. Those are at  
25 Paragraph 8 of your plea agreement, and I want to review them

1 with you again to make sure you understand them.

2 Do you understand that by entering into this plea  
3 agreement and pleading guilty here today, you're going to waive  
4 the right to appeal your conviction and sentence imposed in  
5 this case, or the manner in which the sentence is imposed on  
6 any grounds whatsoever except for ineffective assistance of  
7 counsel claims, do you understand that?

8 **DEFENDANT:** Yes, I do.

9 **THE COURT:** You're also waiving the right to contest  
10 the conviction and sentence or the manner in which the sentence  
11 is imposed in any post-conviction proceeding, including, but  
12 not limited to, a motion brought under Title 28, United States  
13 Code, Section 2255, except for ineffective assistance of  
14 counsel claims, do you understand that?

15 **DEFENDANT:** Yes, sir.

16 **THE COURT:** You're also waiving the right to seek  
17 attorneys' fees or costs in this case, and you're acknowledging  
18 that the government's position in this case was not vexatious,  
19 frivolous or in bad faith. Do you understand that?

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** You're waiving all rights, whether  
22 asserted by you or through a representative, to request or  
23 receive from any department or agency of the United States, any  
24 records pertaining to the investigation or the prosecution of  
25 this case, do you understand that?

1           **DEFENDANT:** Yes, sir.

2           **THE COURT:** You're also acknowledging and agreeing  
3 that any factual issues regarding your sentencing will be  
4 decided by the sentencing judge under a preponderance of the  
5 evidence standard, which is a lower standard of evidence than  
6 would apply at a jury trial, do you understand that?

7           **DEFENDANT:** Yes, I do.

8           **THE COURT:** And you're also waiving or giving up any  
9 right to have a jury decide any of these sentencing issues. Do  
10 you understand that?

11          **DEFENDANT:** Yes, sir.

12          **THE COURT:** You're also agreeing that, in making its  
13 sentencing decision, the Court may consider any relevant  
14 evidence without regard to whether that evidence would be  
15 admissible under the Rules of Evidence that would apply at a  
16 trial, do you understand that?

17          **DEFENDANT:** Yes, sir.

18          **THE COURT:** Have you read each and every one of these  
19 waivers, Mr. Nelson?

20          **DEFENDANT:** Yes, I have.

21          **THE COURT:** And have you discussed them with your  
22 attorney, your attorneys, and asked your attorneys any  
23 questions you may have had about them?

24          **DEFENDANT:** Yes, sir.

25          **THE COURT:** Did you understand your attorneys'



1 answers?

2 **DEFENDANT:** Yes, I did.

3 **THE COURT:** Do you understand what these waivers mean  
4 and what their consequences are?

5 **DEFENDANT:** Yes, I do.

6 **THE COURT:** And do you fully and completely  
7 understand, and knowingly and voluntarily agree to all of these  
8 waivers, along with all of the other terms of the plea  
9 agreement and plea supplement?

10 **DEFENDANT:** Yes.

11 **THE COURT:** Counsel, are each of you satisfied that  
12 Mr. Nelson fully and completely understands and knowingly and  
13 voluntarily agrees to all of these waivers, along with all of  
14 the other terms of the plea agreement and the plea supplement,  
15 Mr. Davis?

16 **MR. DAVIS:** Yes, Your Honor.

17 **THE COURT:** Mr. Barnett?

18 **MR. BARNETT:** Yes, Your Honor.

19 **THE COURT:** Under those circumstances, then, the  
20 Court will accept the plea agreement and plea supplement and  
21 direct that they be filed into the record. Pursuant to local  
22 court rule, the plea supplement will be filed under seal.

23 Now, Mr. Nelson, do you understand that the offense  
24 to which you're seeking to plead guilty here today is a felony  
25 offense, and that if your plea is accepted by the Court, you

1 will be adjudged guilty of that offense, and such adjudication  
2 of guilt may deprive you of valuable civil rights, such as the  
3 right to vote, the right to hold public office, the right to  
4 serve on a jury, and the right to possess any kind of firearm.  
5 Do you understand that, sir?

6 **DEFENDANT:** Yes, sir.

7 **THE COURT:** I'm required to inform you of the maximum  
8 and mandatory minimum penalties to which you would be exposed  
9 by pleading guilty to this charge. You're seeking to plead  
10 guilty to Count 2 of the indictment, which charges you with  
11 violating Title 21, United States Code, Section 841(a)(1),  
12 Possession with Intent to Distribute a Controlled Substance.  
13 If you plead guilty to this charge, the maximum and mandatory  
14 minimum penalties to which you would be exposed would be as  
15 follows: A term of imprisonment of not more than 20 years; a  
16 fine of up to \$1 million; a term of supervised release of at  
17 least three years; and a \$100 special assessment. Do you  
18 understand that those are the maximum and mandatory minimum  
19 penalties to which you would be exposed by pleading guilty to  
20 this charge?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** And have you discussed those with your  
23 attorneys and asked them any questions you may have had about  
24 them?

25 **DEFENDANT:** Yes, sir.

1           **THE COURT:** Did you understand your attorneys'  
2 answers?

3           **DEFENDANT:** Yes, I did.

4           **THE COURT:** Now, do you understand that a term of  
5 supervised release is imposed in addition to any sentence of  
6 imprisonment, do you understand that?

7           **DEFENDANT:** Yes, sir.

8           **THE COURT:** And what supervised release is, is a  
9 period of time following your release from any term of  
10 imprisonment during which your activities would be monitored  
11 and supervised by the U.S. Probation Office, do you understand  
12 that?

13           **DEFENDANT:** Yes, sir.

14           **THE COURT:** And if you violate any of the conditions  
15 of your supervised release, you could be subjected to  
16 imprisonment for the entire term of supervised release without  
17 credit for any time that you might have already served on that  
18 term of supervised release, do you understand that?

19           **DEFENDANT:** Yes, sir.

20           **THE COURT:** If applicable, in some cases, the Court  
21 may also order you or be required to order you to pay  
22 restitution, do you understand that?

23           **DEFENDANT:** Yes, sir.

24           **THE COURT:** And Ms. Van Buskirk, let me inquire, will  
25 forfeiture be applicable in this case?

1           **MS. VAN BUSKIRK:** No, Your Honor, it was handled on  
2 the state side.

3           **THE COURT:** All right. Finally, for each offense you  
4 must pay a special assessment of \$100 per count, which in this  
5 case, because you're pleading guilty to one count, would be  
6 \$100, do you understand that?

7           **DEFENDANT:** Yes, sir.

8           **THE COURT:** Do you understand all of these possible  
9 consequences of your plea here today, Mr. Nelson?

10          **DEFENDANT:** Yes, sir.

11          **THE COURT:** Have you discussed them with your  
12 attorneys and asked them any questions you may have had about  
13 them?

14          **DEFENDANT:** Yes, sir.

15          **THE COURT:** Did you understand their answers?

16          **DEFENDANT:** Yes, I did.

17          **THE COURT:** Under the Sentencing Reform Act of 1984,  
18 the United States Sentencing Commission has issued sentencing  
19 guidelines for judges to follow to determine a sentence in a  
20 criminal case. Your sentence in this case will be determined  
21 by considering a combination of these advisory sentencing  
22 guidelines, possible authorized departures from those  
23 guidelines, and other statutory sentencing factors that  
24 Congress has set forth at Title 18, United States Code,  
25 Section 3553. Have you and your attorneys talked about how the

1 sentencing guidelines might apply to your case?

2 **DEFENDANT:** Yes, sir.

3 **THE COURT:** Now, do you understand that the Court  
4 will not be able to determine the guideline sentence range for  
5 your case until after the Probation Office has prepared a  
6 presentence report, and you and the government have both had an  
7 opportunity to review that report and to challenge or object to  
8 the reported facts and the proposed application of the  
9 sentencing guidelines recommended by the probation officer, do  
10 you understand that?

11 **DEFENDANT:** Yes, sir.

12 **THE COURT:** Do you also understand that the sentence  
13 ultimately imposed by the Court may be different from any  
14 estimate that your attorneys may have given you, do you  
15 understand that?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** Also, after your initial advisory  
18 sentencing guideline range has been determined, the Court has  
19 the authority, under some circumstances, to depart upward,  
20 above the guideline range, or downward, below the guideline  
21 range. The Court will also consider statutory sentencing  
22 factors found at Title 18, United States Code, Section 3553,  
23 that could result in the imposition of a sentence that is  
24 either greater than or lesser than the advisory guideline  
25 sentence range, do you understand that?

1                   **DEFENDANT:** Yes, sir.

2                   **THE COURT:** Do you understand that the Court, in its  
3 discretion, could sentence you up to the maximum prison  
4 sentence provided by statute, which in this case is 20 years,  
5 do you understand that?

6                   **DEFENDANT:** Yes, sir.

7                   **THE COURT:** Finally, parole has been abolished, and  
8 if you're sentenced to prison, you will not be released on  
9 parole, do you understand that?

10                  **DEFENDANT:** Yes, sir.

11                  **THE COURT:** Now, you're also waiving some  
12 constitutional rights by pleading guilty today. I want to  
13 review those with you, as well, to make sure you understand  
14 them. Do you understand that you have a right to plead not  
15 guilty to any offense charged against you and to persist in  
16 that plea of not guilty, do you understand that?

17                  **DEFENDANT:** Yes, sir.

18                  **THE COURT:** You would then have the right to a trial  
19 by a jury, do you understand that?

20                  **DEFENDANT:** Yes, I do.

21                  **THE COURT:** And at that trial, you would be presumed  
22 to be innocent, and the government would have to prove your  
23 guilt beyond a reasonable doubt, do you understand that?

24                  **DEFENDANT:** Yes, sir.

25                  **THE COURT:** You would have the right to the

1 assistance of counsel for your defense at trial, and at every  
2 stage of the proceeding. And if necessary, the Court would  
3 appoint an attorney for you, do you understand that?

4 **DEFENDANT:** Yes, sir.

5 **THE COURT:** You would have the right to see and hear  
6 all of the witnesses who testify and have them cross-examined  
7 in your defense, do you understand that?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** You would have the right to the issuance  
10 of subpoenas or compulsory process to require witnesses to  
11 attend to testify in your defense, do you understand that?

12 **DEFENDANT:** Yes, sir.

13 **THE COURT:** You would have the right on your own part  
14 to refuse to testify unless you voluntarily elected to do so in  
15 your own defense, do you understand that?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** And if you decided not to testify, or not  
18 to put on any evidence whatsoever, those facts could not be  
19 used against you, do you understand that?

20 **DEFENDANT:** Yes, sir, I do.

21 **THE COURT:** Do you further understand that by  
22 entering a plea of guilty here today, if that plea is accepted  
23 by the Court, there will not be a trial, and you will have  
24 waived or given up your right to a trial, as well as all of the  
25 other rights associated with a trial as I have just described

1     them, do you understand that?

2                 **DEFENDANT:**   Yes, sir.

3                 **THE COURT:**   I'm required to inform you of the charge  
4     to which you're seeking to plead guilty in this case.  You're  
5     seeking to plead guilty to Count 2 of the indictment, which  
6     charges as follows:  That on or about July 7, 2018, in Jackson  
7     County, in the Southern Division of the Southern District of  
8     Mississippi and elsewhere, the defendant, Ambrose DeJuan  
9     Nelson, aided and abetted by others, known and unknown to the  
10    Grand Jury, did knowingly and intentionally possess with intent  
11    to distribute a mixture or substance containing a detectable  
12    amount of heroin, a Schedule I controlled substance, in  
13    violation of Title 21, United States Code, Sections 841(a)(1)  
14    and (b)(1)(C), and Title 18, United States Code, Section 2.  
15    Have you seen the indictment against you in this case, Mr.  
16    Nelson?

17                **DEFENDANT:**   Yes, I have.

18                **THE COURT:**   And have you read this charge in Count 2  
19    to which you are seeking to plead guilty?

20                **DEFENDANT:**   Yes, sir.

21                **THE COURT:**   Did you have a full opportunity to  
22    discuss this charge with your attorneys and ask them any  
23    questions you may have had about it?

24                **DEFENDANT:**   Yes, sir.

25                **THE COURT:**   And did you understand your attorneys'



1 answers?

2 **DEFENDANT:** Yes, I did.

3 **THE COURT:** Do you understand the charge against you  
4 in Count 2?

5 **DEFENDANT:** Yes, sir.

6 **THE COURT:** Counsel, are you satisfied that your  
7 client understands the charge against him in Count 2, Mr.  
8 Davis?

9 **MR. DAVIS:** Yes, Your Honor.

10 **THE COURT:** Mr. Barnett?

11 **MR. BARNETT:** Yes, Your Honor.

12 **THE COURT:** I also need to explain to you the  
13 essential elements of the charge contained in Count 2. These  
14 are the things that the government would have to prove, and  
15 they would have to prove them beyond a reasonable doubt before  
16 you could be found guilty.

17 Count 2 charges you with violating Title 21, United  
18 States Code, Section 841(a)(1), which makes it a crime for  
19 anyone knowingly or intentionally to possess a controlled  
20 substance with the intent to distribute it. Heroin is a  
21 controlled substance within the meaning of this law. So in  
22 order for you to be found guilty of this charge, the government  
23 must prove each of these following elements beyond a reasonable  
24 doubt. First, that the defendant, and that would be you,  
25 knowingly possessed a controlled substance; second, that the

1 substance was, in fact, heroin; third, that the defendant, and  
2 that would be you again, possessed the substance with the  
3 intent to distribute it; and fourth, that the quantity of this  
4 substance was a detectable amount of heroin.

5 To possess with intent to distribute simply means to  
6 possess with the intent to deliver or transfer possession of a  
7 controlled substance to another person with or without any  
8 financial interest in the transaction.

9 So those are the essential elements of the charge  
10 against you in Count 2. Do you understand those, Mr. Nelson?

11 **DEFENDANT:** Yes, sir.

12 **THE COURT:** And have you discussed those with your  
13 attorneys and asked them any questions that you may have had  
14 about them?

15 **DEFENDANT:** Yes, sir.

16 **THE COURT:** Did you understand your attorneys'  
17 answers?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** Do you understand what it is the  
20 government must prove beyond a reasonable doubt before you  
21 could be found guilty?

22 **DEFENDANT:** Yes, sir.

23 **THE COURT:** And do you fully and completely  
24 understand the nature of the charge against you in Count 2,  
25 including its essential elements?

1                   **DEFENDANT:** Yes, sir.

2                   **THE COURT:** Counsel, are each of you satisfied that  
3 your client fully and completely understands the nature of the  
4 charge against him in Count 2, including its essential  
5 elements, Mr. Davis?

6                   **MR. DAVIS:** Yes, Your Honor.

7                   **MR. BARNETT:** Yes, Your Honor.

8                   **THE COURT:** Now, at this time, Mr. Nelson, I'm going  
9 to ask the attorney for the government to state into the record  
10 those facts that the government would be prepared to prove if  
11 this case went to trial. I want you to listen carefully to  
12 what she has to say, because when she's finished I'm going to  
13 ask you if you understand and agree with everything she has to  
14 say. Counsel.

15                   **MS. VAN BUSKIRK:** If this matter proceeded to trial,  
16 the government would call witnesses to testify and introduce  
17 evidence that would show on or about July 7th, 2018, in Jackson  
18 County, in the Southern Division of Mississippi and elsewhere,  
19 the defendant, aided and abetted by others known and unknown to  
20 the Grand Jury, did knowingly and intentionally possess with  
21 intent to distribute a mixture or substance containing a  
22 detectable amount of heroin, a Schedule I controlled substance.

23                   Specifically, while driving a vehicle in Gautier,  
24 Mississippi, Mr. Nelson was stopped for a traffic violation  
25 around 4:30 in the morning. The Jackson County sheriff's

1 deputy who conducted the shop noticed what had appeared to be  
2 the sole occupant, Mr. Nelson, place something in the back seat  
3 while the deputy was trying to stop the vehicle.

4           Upon making contact with Mr. Nelson, the deputy  
5 believed that he was operating the vehicle under the influence.  
6 Mr. Nelson was subsequently arrested and placed in the back of  
7 the deputy's patrol unit. While performing an inventory of the  
8 vehicle, the deputy located a bag in the back seat that  
9 contained over \$18,000 in cash and heroin.

10           Another deputy attempted to retrieve all the property  
11 from Mr. Nelson's person, and upon doing so Mr. Nelson began to  
12 struggle with the deputy. Mr. Nelson destroyed a cell phone  
13 during the altercation by snapping it in half. The evidence  
14 retrieved from the bag was sent to the Mississippi Crime  
15 Laboratory and examined for the presence of a controlled  
16 substance, and, in fact, contained heroin and had a gross  
17 weight of 17.11 grams.

18           **THE COURT:** All right. Mr. Nelson, did you hear  
19 everything the attorney for the government had to say?

20           **DEFENDANT:** Yes, I did.

21           **THE COURT:** Did you understand everything she had to  
22 say?

23           **DEFENDANT:** Yes, I did.

24           **THE COURT:** Do you agree with those facts?

25           **DEFENDANT:** Yes, sir.

1           **THE COURT:** And is that, in fact, what happened in  
2 this case?

3           **DEFENDANT:** Yes, sir.

4           **THE COURT:** In a moment, I'm going to ask you for  
5 your plea to the charge in Count 2, whether that plea is guilty  
6 or not guilty. Before I do that, though, is there anything  
7 that you have not understood this morning or that you would  
8 like to discuss further with your attorneys?

9           **DEFENDANT:** Can I have one second with my attorneys,  
10 please?

11           **THE COURT:** Yes, you may. Take your time.  
12 (Off Record Discussion).

13           **THE COURT:** Are we ready?

14           **DEFENDANT:** Yes, sir.

15           **THE COURT:** Did you get all of your questions  
16 answered, Mr. Nelson?

17           **DEFENDANT:** Yes, I did.

18           **THE COURT:** And are you ready to proceed?

19           **DEFENDANT:** Yes, I am, sir.

20           **THE COURT:** Mr. Nelson, how do you now plead to the  
21 charge in Count 2 of the indictment, guilty or not guilty?

22           **DEFENDANT:** I plead guilty, sir.

23           **THE COURT:** It is the finding of the Court in the  
24 case of United States versus Ambrose DeJuan Nelson, that having  
25 viewed the defendant in court and considered his demeanor and

1 responses, that the defendant is fully competent and capable of  
2 entering an informed plea, that the defendant is aware of the  
3 nature of the charges and the consequences of the plea, and  
4 that the plea of guilty to Count 2 of the indictment is a  
5 knowing and voluntary plea, supported by an independent basis  
6 in fact containing each of the essential elements of the  
7 offense. The plea is therefore accepted, and the defendant is  
8 now adjudged guilty of that offense.

9 As I mentioned, a written presentence report will  
10 need to be prepared by the Probation Office to assist the Court  
11 in sentencing. You are going to be asked to give information  
12 to the probation officer for this report. It's very important  
13 that you provide complete and truthful answers to the probation  
14 officer whenever you meet with him or her. You may have your  
15 attorney present with you if you wish when you meet with the  
16 probation officer. And you and your attorney will be allowed  
17 to read the presentence report and file any objections you may  
18 have to the presentence report before the sentencing hearing.  
19 You and your attorney will also have an opportunity to speak on  
20 your behalf at the sentencing hearing before the Court imposes  
21 any sentence. So sometime after we finish this morning,  
22 someone from probation will be in touch with either you or your  
23 attorney to begin that process.

24 Sentencing in this case will be on Friday, March the  
25 15th, 2019, at 9:30 a.m. here in this courtroom. Friday, March

1 the 15th, 2019, at 9:30 a.m. here in this courtroom.

2 One thing I want to remind you of, Mr. Nelson, is you  
3 have now been adjudged guilty of a felony. One consequence of  
4 that is you no longer have the right to possess a firearm of  
5 any kind for any purpose, do you understand that, sir?

6 **DEFENDANT:** Yes, sir.

7 **THE COURT:** Under the provisions of the Bail Reform  
8 Act, the defendant will be remanded to the custody of the U.S.  
9 Marshal pending sentencing. Is there anything further at this  
10 time?

11 **MS. VAN BUSKIRK:** No, Your Honor.

12 **MR. DAVIS:** Judge, just again, if there's any  
13 advantages from the recently passed criminal justice reform act  
14 that assist Mr. Nelson in his sentence, we would request that  
15 be applied to his sentence.

16 **THE COURT:** Certainly. That, of course, will be a  
17 legal question depending on what the law is and what's in it,  
18 and those arguments can be raised at the time of sentencing.  
19 Nothing is final until the final judgment is entered with the  
20 sentence. So those can be brought up at sentencing.

21 **MR. BARNETT:** Did Your Honor say the sentencing would  
22 be March the 15th or 16th?

23 **THE COURT:** Fifteenth.

24 **MR. BARNETT:** 1/5?

25 **THE COURT:** 1/5, yes, sir.

1           **MR. BARNETT:** Thank you.

2           **THE COURT:** Are you going to be retained -- remaining  
3 on the case, Mr. Davis?

4           **MR. DAVIS:** Judge, I am right now, yes, sir, unless  
5 the Court wants me to withdraw since Mr. Barnett made an  
6 appearance.

7           **MR. BARNETT:** I don't want him to withdraw.

8           **THE COURT:** Well, we'll have to take a look at that  
9 because if he has retained counsel, I'm not sure under the CJA  
10 that he can also have appointed counsel.

11           **MR. DAVIS:** I understand --

12           **THE COURT:** Because then he wouldn't be considered  
13 indigent any longer.

14           **MR. DAVIS:** I understand that.

15           **THE COURT:** So we'll take that matter up separately,  
16 and if you need to file something, you'll have to file it.

17           **MR. DAVIS:** I will. And if the Court -- that's what  
18 I'm saying, if the Court feels I need to withdraw, I will, Your  
19 Honor.

20           **THE COURT:** We'll let you know. Certainly, if Mr.  
21 Nelson wants to keep you both on, he can separately retain you  
22 if he wants to do that. That's his decision.

23           **MR. DAVIS:** Yes.

24           **THE COURT:** Anything else?

25           **MS. VAN BUSKIRK:** No, Your Honor.



1           **THE COURT:** Anything else?

2           **MR. BARNETT:** No, Your Honor.

3           **MR. DAVIS:** No.

4           **THE COURT:** Defendant is remanded to custody. We'll  
5 see you on March 15th. Counsel, you are excused.

6           The Court will take a very short break before the  
7 next matter.

8                           (HEARING CONCLUDED)

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CERTIFICATE OF COURT REPORTER

I, Sherri L. Penny, RPR, Official Court Reporter for the United States District Court for the Southern District of Mississippi, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings audio recorded and transcribed by me using the audio recording made in this matter, and that same is a true and correct transcript to the best of my ability and understanding. Any inaudibles that occur in the transcript are a result of the poor recording quality of the audio.

I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

S/ Sherri L. Penny  
Sherri L. Penny, RPR, FCRR  
OFFICIAL COURT REPORTER